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October 15, 2004

Lawrence Norton, Esq.
General Counsel
Federal Elections Commission
999 E Street, N.W., 6th Floor
Washington, D.C. 20463

Expedited Delivery

Re: "Voice of the Times" Commentary Page in Anchorage Daily News
Complaint of Jean Paal, MUR #5537

Dear Mr. Norton,

The above-referenced complaint was filed with the Commission September 11, 2004, and received by the Anchorage Daily News ("Daily News") October 5, 2004. It alleges that the Daily News violated federal law governing campaign contributions and expenditures (the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§431 *et seq.*, hereinafter, the "Act"), and corresponding regulations of the Federal Elections Commission ("FEC"), 11 C.F.R. §§100.1 *et seq.*, by regularly publishing in its opinion/editorial ("op-ed") section a half-page of news, editorials and commentary known as "The Voice of the Times." Specifically, the complaint alleges election law violations arising from advocacy in the Voice of the Times concerning the current U.S. Senate race. As noted in more detail below, the Daily News has violated no laws or regulations, and the FEC has no jurisdiction to proceed further with any investigation of the paper.

The Daily News is concerned about the propriety of any government investigation into the content of what a newspaper is printing, and into the paper's motivation, editorial decision-making process, financial considerations and other factors informing its choice of what appears in its pages. Any such investigation, if permissible at all, must be highly restricted. At the same time, the Daily News respects the need for vigorous enforcement of laws ensuring the integrity of political campaigns, and the need for community confidence in both our nation's electoral processes and news organizations. With these competing considerations in mind, and without waiving the right to object to more intrusive investigation, the Daily News wishes to cooperate with the FEC's inquiry by providing the following response.

The complaint also names VECO Corporation (*sic*, VECO International Co., hereinafter, "VECO") and its CEO, Bill Allen, who are responsible for the content of the "Voice of the Times." It is clear that the complainant's real grievance is with them. This response is filed on behalf of the Daily News only. It appears, however, that a determination that the Daily News is not violating federal law by publishing the Voice of the Times would be dispositive of the complaints against VECO and Mr. Allen.

The Applicable Legal Test

The Act prohibits any corporation from making any contribution or expenditure in connection with a Federal election. 2 U.S.C. 441b(a), and imposes reporting requirements for independent

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expenditures by individuals. The Act and regulations define the terms "contribution" and "expenditure" to include any direct or indirect payment or "anything of value," for the purpose of influencing a Federal election, but exempt any cost "incurred in covering or carrying a news story, commentary or editorial by any broadcasting station ..., newspaper, magazine, or other periodical publication ... unless the facility is owned or controlled by any political party, political committee, or candidate." 2 U.S.C. §431(9)(B)(i), 11 CFR 100.73 (not a contribution) and 100.132 (not an expenditure) (hereinafter collectively referred to as the "press exemption").

Thus, courts and the FEC have concluded that three factors must be present for the press exemption to apply:

First, the entity engaging in the activity must be a press entity as described by the Act and Commission regulations. See Advisory Opinions 2003-34, 2000-13, 1998-17, 1996-48, 1996-41, 1996-16 and advisory opinions cited therein. Second, an application of the press exemption depends upon the two-part framework presented in *Reader's Digest Association v. FEC*, 509 F.Supp. 1210, 1215 (S.D.N.Y. 1981): (1) Whether the press is owned or controlled by a political party, political action committee, or candidate; and (2) Whether the press entity is acting as a press entity in conducting the activity at issue (i.e., whether the entity is acting in its "legitimate press function"). See also *FEC v. Phillips Publishing*, 517 F. Supp. 1308, 1312-1313 (D.D.C. 1981); Advisory Opinions 2000-13, 1996-48, and 1982-44.

Advisory Opinion ("AO") 2004-07. (In re: MTV/Viacom) The legislative history of the "press exemption" shows that Congress intended to protect First Amendment values with respect to campaign coverage:

[I]t is not the intent of the Congress in the present legislation to limit or burden in any way the first amendment freedoms of the press and of association. Thus [the exemption] assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns.

H.R.Rep. No. 93-1239, 93d Cong., 2d Sess. at 4 (1974). While this exemption "does not afford *carte blanche*" to ignore FECA's provisions, cf. *McConnell v. FEC*, 540 U.S. 93; 124 S. Ct. 619, 697; 157 L. Ed. 2d 491 (2003), it is generally construed broadly to avoid improper interference with First Amendment rights of the press and public. *Phillips*, 517 F.Supp. at 1312.

To Avoid Infringing First Amendment Rights, The Government's Investigation Here Must Be Very Limited

At least with respect to the complaint against the Daily News, the FEC's subject matter jurisdiction in this matter is limited to determining whether the Anchorage Daily News is a "press entity" and whether, on its face, the press exemption applies to the Voice of the Times feature regularly carried on the editorial pages of the Daily News.

All of us have an interest in protecting First Amendment values by being vigilant against unwarranted government investigations of news media and political expression presented by them. The Daily News, like media organizations of every stripe, has a more particularized interest in seeing that those who are given space in the newspaper's op-ed pages are not, by virtue of appearing there as commentators, subjected to government investigations about their motivations, political preferences, and financial arrangements.

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The complainant may wish the FEC to investigate further, to explore any possible connection between the Voice of the Times commentators and political candidates or parties, or to scrutinize the details of financial arrangements between VECO and the Daily News, or to probe the motivations of VECO and its employees with respect to election-related commentary. However, "conjecture that a violation may have occurred" cannot justify an investigation.

"[M]ere 'official curiosity' will not suffice as the basis for FEC investigations, as it might in [other agencies]." MNPL (*Federal Election Commission v. Machinists Non-Partisan Political League*, 210 U.S. App. D.C. 267, 655 F.2d 380 (D.C. Cir. 1981)) at 388, and the Supreme Court has warned that "the power of compulsory process (must) be carefully circumscribed when the investigative process tends to impinge on such highly sensitive areas of freedom of speech or press, freedom of political association, and freedom of communication of ideas." *Sweezy v. New Hampshire*, 354 U.S. 234, 245, 77 S.Ct. 1203, 1209, 1 L.Ed.2d 1311 (1957). ...

Phillips, supra, 517 F.Supp. at 1314. Compare MUR 5315 (In re: Wal-Mart Stores, Inc.) ("Dismissal ... is dictated by the statute and the constraints we face under the Constitution. The Commission should declare that a story – no matter how complimentary, critical, or 'political' and without reference to motive, intent, or publisher's viability – published in a periodical, is protected by the press exemption and therefore is not an expenditure under the Act. It only could become an expenditure if the periodical is owned or controlled by a political party, political committee, or candidate.")

The Facts

For purposes of this response, the Daily News accepts that the assertions set out in the "Facts" section and in Exhibit A to the complaint (republished from the Daily News) are accurate. The Anchorage Daily News is the leading newspaper in Alaska. Since it began in 1946, the Daily News has been widely recognized for its outstanding journalism (twice receiving the Pulitzer Prize – the Pulitzer Foundation's Gold Medal for Meritorious Public Service), and has provided a vigorous, independent editorial voice. For most of the years since, our community and state enjoyed the benefit of competition between two major daily newspapers in Anchorage, the Daily News and the Anchorage Times (the "Times"). The Times was owned for over 50 years by the same individual, its editor and publisher, Robert Atwood. In December, 1989, Mr. Atwood sold his newspaper to Bill Allen, principal owner and CEO of an oilfield services and construction company, VECO International, Inc. Mr. Allen published the Times for over two years, until 1992, when he folded the paper and sold most of its assets to the Daily News.

Through the years they competed, the Daily News and Times often offered widely different views about political, environmental, cultural and other issues affecting Anchorage and Alaska. When the Times folded in 1992, the Daily News agreed with Mr. Allen to devise a unique institution in American journalism by devoting half a page in the Daily News' op-ed section to a feature that would allow a continuing presentation of commentary by the publisher of the now-defunct Times. Specifically, the Daily News and former Times' publisher agreed that Allen, through this feature that came to be known as the "Voice of the Times," could publish a half page of editorials, opinion pieces, columns, letters to the editor, cartoons, photographs, comments on the news, comments on news coverage, syndicated features, and other contents typically found on editorial op-ed pages, without editorial control or interference by the Daily News.

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The Voice of the Times has been published by the Daily News, as described above, as a daily feature in the Daily News continuously since 1992. Copies of illustrative examples of the Voice of the Times commentary are provided as Attachment A to this response. The complaint alleges that the Voice of the Times exists as “paid space” in the Daily News. For reasons noted above, government inquiry into the financial arrangements between the Daily News and VECO and/or Mr. Allen is inappropriate, given the prima facie application of the press exemption. Nonetheless, and without waiving objections in this regard, the Daily News notes that it does not charge VECO or Mr. Allen for the space used for this commentary, as it would charge an advertiser. It does at this time require the former Times publisher to pay the direct costs associated with publishing the Voice of the Times. *See* Sexton Aff. (Even assuming, *arguendo*, that the Voice of the Times were distributed through “paid space,” it would make no difference in the outcome here, given the unique circumstances of the publication of this regular commentary feature.)

Discussion and Analysis

The Daily News appreciates the complainant’s frustration and unhappiness over what she perceives as a consistent pattern of biased opinion and commentary by those responsible for the content of the Voice of the Times. Strong differences over the Times’ opinions, commentary and news coverage gave rise to the Daily News in the first place, fueled it’s challenge to the Times’ dominance for decades, and continued to characterize the competition between these publications after the Daily News became the larger paper. While the Daily News often disagrees with much of what is presented in the Voice of the Times, and accepts, *arguendo*, complainant’s characterization of election-related content in the Voice of the Times, it stands by its commitment to provide a vehicle for presenting the views of the last *Anchorage Times* publisher.

Is this a “business arrangement?” Yes. The Daily News has business arrangements with reporters, freelancers, wire services, syndicates, advertisers and others, that enable it to assemble the high quality news product it delivers each day. One hallmark of the Voice of the Times arrangement is undeniably the degree of control that the Daily News exercises over the content of the Voice of the Times—virtually none. But this is itself an important editorial judgment exercised by the Daily News. In the rest of the paper, the Daily News presents a wide range of viewpoints, from across the political spectrum, some of which may mirror views presented by the Voice of the Times. The Daily News can pick and choose — or reject — this content for any reason, including considerations of taste, bias, and balance. Exercising this kind of discretion with respect to the Voice of the Times is incompatible with preserving its truly independent editorial voice.

Consideration of the Three Factors Relevant to the Press Exemption Requires Dismissal of This Complaint

a. Publication by a “Press Entity”

The complainant acknowledges that the Daily News is a press entity. *See also*, accompanying affidavit of Daily News publisher Michael Sexton (“Sexton Aff.”). Given this, no further inquiry concerning this factor is necessary, or appropriate.

The complaint alleges that the Voice of the Times is not itself a press entity, implicitly acknowledging that if it were, the press exemption could apply to it. This confuses the issue. Few, if any, of the commentators listed in Ex. A to the complaint would be “press entities”—indeed, the Voice of the Times alone among this group of former governors, community activists, scholars, and

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interested citizens would most likely qualify.¹ Whether the exemption applies here depends upon whether the Daily News is a "press entity," not whether VECO or Bill Allen is. And, as noted below, it depends further on whether the Daily News is acting as a press entity when it publishes the news, editorials and commentary contained in the Voice of the Times on its op-ed pages, not whether the authors of the Voice of the Times are acting as a press entity in creating this feature for publication in the Daily News.

b. No Ownership or Control By Candidate, Party or Political Committee

The Daily News is not owned or controlled by any candidate, party or political committee. *See* Sexton Aff. This is all the FEC needs to know with respect to this factor.

Arguably, the FEC might have jurisdiction to ascertain whether VECO and/or Mr. Allen constitute a political committee, or are controlled by, or coordinating their activities in producing the Voice of the Times with, a candidate, political party or political campaign to take improper advantage of the unique form of access they have to the Daily News. If so, this inquiry would need to be limited to confirming these threshold questions insofar as they may be relevant to determining subject matter jurisdiction.

Even if this inquiry revealed some improper connection between VECO and/or Mr. Allen and a candidate, party or political committee, it would not mean that the Daily News is violating the Act or FEC regulations by publishing the Voice of the Times. At most, it might mean that VECO or Mr. Allen are violating the law by paying the cost of preparing and distributing the Voice of the Times. But no evidence has been provided or even alleged that the corporate author of the Voice of the Times, or Mr. Allen, are owned or controlled by a particular candidate, party, or political committee. The fact that those associated with the Voice of the Times have made political contributions and expenditures permitted by law, or support or oppose particular candidates, does not disqualify them from expressing their views through commentary published in the Daily News, or subject them to government investigation for expressing their views, any more than any of the numerous other commentators listed in Exhibit A of the complaint should be disqualified or investigated depending on whether they have supported or opposed political candidates, as is their right. This feature has appeared regularly in the Daily News for over 10 years, and clearly does not exist solely to support or oppose a particular candidate, or political candidacies generally. However accurate the complainant's analysis of the Voice of the Times' content, the Daily News is loathe to support government investigation of the political connections of commentators the newspaper has chosen to express themselves in its pages.

¹ This is a legal question, and the answer is not clear. The Supreme Court has stated that corporate publications are not automatically exempt from the statutory prohibition on corporate and labor union expenditures in connection with Federal elections under the press exemption, and that instead, the court must look at all the relevant factors concerning the publication at issue, including its form, continuity, production by a regular staff, distribution to a regular readership, etc. *Federal Election Commission v. Massachusetts Citizens for Life*, 479 U.S. 238, 250-251 (1986). Given its origins, the nature and consistency of its format, the regularity of its daily publication to the general public for over 10 years, and the fact that corporations and unions can publish newsletters or other media that qualify as "press entities," the Voice of the Times may well qualify. This question, and its answer, however, are irrelevant. The Daily News is a press entity; it is carrying the commentary in question as part of its normal press functions.

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c. The Daily News Is Acting In Its Legitimate Press Function In Publishing the Voice of the Times Commentary

For purposes of considering a complaint against the Daily News, the FEC must analyze the "activity at issue" as the publication of the Voice of the Times feature by the Anchorage Daily News, not the activities of Mr. Allen and VECO leading up to it. There can be no dispute that on its face, the Voice of the Times feature published daily as part of the Daily News' op-ed pages constitutes news, editorials and commentary. On its face, it clearly falls with the "media exemption." The complainant argues, though, that the FEC must treat this commentary as nothing more than paid advertising placed by an entity seeking to influence a particular federal election. To do so would require the Commission to look beyond the Daily News' op-ed pages, and inquire into the motivations, political affiliations and activities, and financial arrangements of the authors of this commentary. This is an impermissible exercise.

The press exemption assumes that third parties will provide commentary that is published or broadcast by press entities, and federal law does not dictate the financial relationship between the press and its commentators. In AO 1998-17, the FEC determined that providing free time on a cable TV station was not a prohibited in-kind contribution because the Commission "viewed the proposed activity as falling with the category of commentary, which includes the concept of guest commentary." See also, AO 1982-44 (In re: DNC, RNC) (Given that the press exemption already includes the term "editorial," which applies specifically to the (newspaper's) point of view, "in the opinion of the Commission, "commentary" was intended to allow third persons access to the media to discuss issues.") Compare, AO 2004-30 (In re: Citizens United), in which a 501(c)(4) non-profit corporation wished to buy access to media (including television time) to air a film about a candidate the group opposed.

The situation here differs from that in AO 2004-30, where the FEC found that the content provided by the corporation was not entitled to the press exemption in part because the company there did not regularly produce such content and pay to have it published or broadcast. In this case Mr. Allen and his corporation have produced content in the form of the Voice of the Times daily for over ten years, often including items of the kind objected to by complainant here, and have paid to have it published. In this regard, the observation of the federal court in *Phillips* is particularly instructive here: "Clearly further investigation would be warranted if (the publication at issue there) had not been in existence for over 10 years but rather had been established for the sole purpose of supporting or opposing a candidate, or if the FEC had some evidence linking (the publication) with a political organization or candidate." Id. Here, the Voice of the Times has been in existence for over 10 years, and no one contends that it was established for the sole purpose of supporting or opposing a candidate.

Complainant's Reliance On the C-SPAN Case Is Misplaced

The complaint alleges that the Daily News does not exercise control over the content of the Voice of the Times, and that this is "a requirement for communications to fall under the press exemption of a press entity," citing AO 1996-48 (In re: NCSC, C-SPAN). Her reliance on the C-SPAN opinion is misplaced. The FEC in that case addressed specific facts presented by the National Cable Satellite Corporation (NCSC) in requesting an FEC advisory opinion concerning specific proposed campaign-related programming by NCSC's C-SPAN networks. In particular, C-SPAN planned to air materials produced by the candidates themselves, including election advocacy materials. The Commission's opinion said this was not a problem. It observed that NCSC would "retain control over the context" "in which the materials produced by the candidates would be presented. (emphasis added) Specifically, it said that it was permissible under the press exemption to present even "election advocacy messages" prepared by candidates or campaign committees, so long as it was in the context

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of news, editorials or commentary. It did not say that NCSC must retain control over the *content* of the candidate's material. Presumably the question of whether a candidate or campaign controlled the *context* goes to the statutory requirement that the press entity not be "owned or controlled, in whole or in part, by any political party, political committee, or candidate." The opinion notes that "neither the campaign committees nor the candidates would have the ability to determine when or how their election advocacy messages are presented to the (public)."

The FEC's limited role here, consistent with the First Amendment and the Act, is to verify that the election-related expression is presented in a *context* that, on its face, brings it within the press exemption. The government's role is not to police the content of this political expression, nor is it proper to require the press to police the content of political views expressed by third party commentators presented in its op-ed pages.

The material that Ms. Paal complains is intended to influence a Federal election is presented in the Voice of the Times in the context of news, editorials and commentary. More to the point with respect to an FEC complaint against the Daily News, the Daily News presents the Voice of the Times in a specific context (including a separate masthead, identifying the publisher and editors responsible for this feature) that makes it clear that this commentary reflects and preserves an independent editorial voice. And while this is not necessary, the Daily News takes affirmative steps to ensure that readers do not conclude that publication of this material by it constitutes an endorsement of the views expressed in the Voice of the Times. See, e.g., Attachment A hereto, containing representative samples of the Voice of the Times, all containing the legend "The Voice of the Times does not represent the views of the Anchorage Daily News. It is published under an arrangement to preserve the separate editorial voice of the former Anchorage Times."

The Daily News believes that Ms. Paal's complaint against VECO and Mr. Allen is without merit, but acknowledges that it is not frivolous, *compare* AO 1980-90 (In re: Atlantic Richfield) (§431(9)(B)(1) news story exemption not intended to encompass communications produced by a corporation and provided to news organization); AO 1987-8 (In re: U.S. News & World Report, and American International Group ("AIG")) (no violation arising from AIG's corporate sponsorship of election-related news coverage and related media productions by news magazine, given U.S. News maintenance of absolute editorial objectivity and independence, and responsibility for costs of production, and based on assumptions that that the insurance corporation would have no control over or participation in production, no control over content, no right to select candidates to be featured and no say in timing and scheduling matters). Application of the press exemption usually turns on whether an activity is typically performed by a press entity, AO 2004-07, and eligibility for the press exemption can turn on "considerations of form." AO 2004-30 (In re: Citizens United) (interpreting press exemption in analogous context of 2 U.S.C. 434(f)(3)(B)(i), electioneering communications: "Indeed, the very act of paying a broadcaster to air a documentary on television, rather than receiving compensation from a broadcaster, is one of the "considerations of form" that can help distinguish an electioneering communication from exempted media activity.") However, for the reasons noted above, the circumstances here are different.

Conclusion

The Daily News is not violating the law. It is not making any prohibited campaign contribution or expenditure by publishing the Voice of the Times. The Daily News has assumed in good faith that Mr. Allen and VECO are not violating campaign laws, either, by their publication of Voice of the Times. If the FEC determines that the portions of their commentary aimed at influencing elections are legally actionable as violations of federal election laws, the Daily News will respect this determination and proceed accordingly. For reasons noted above, the Daily News has no reason to believe this is the

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case. And, absent such a determination, the Daily News intends to continue honoring its commitment to present the Voice of the Times to its readers as an independent editorial voice.

ADN could contractually limit the Voice of the Times' right to publish commentaries intended to influence elections. To date, it has made the judgment that the benefits of preserving a truly independent editorial voice through its arrangement with the former publisher of the Anchorage Times outweigh the dangers of abuses and excesses inherent in allowing VECO the near-complete freedom it has to provide commentary in the Daily News' op-ed pages. Whether this judgment is to be revisited, or second-guessed, is a decision that can only be made by the Daily News, without insistence or pressure from the government.

Confidentiality

FEC regulations afford limited confidentiality to those accused of violating election laws, to protect them from embarrassment arising from publicity during the investigation phase. This protection can be waived. 2 USC 437g(a)(4)(B) and 437g(a)(12). The complaint and this response address serious issues of importance to Daily News readers. Many readers may be offended and upset by what appears in the Voice of the Times — as well as by other content that appears from time to time in other parts of the paper. The Daily News would rather not go behind closed doors to justify protecting freedom of expression for divergent and unpopular views. We believe the credibility and integrity of the paper are best served by waiving any confidentiality protections afforded by the statute.

Sincerely,



D. John McKay
Attorney for Anchorage Daily News

DJM/jd

cc: Michael Sexton, Publisher, Anchorage Daily News
W.P. Dougherty, Editor, Anchorage Daily News

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Affidavit of Michael Sexton
In Support Of
Anchorage Daily News Response to
FEC Complaint of Jean Paal, MUR #5537

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Michael Sexton, upon oath, states as follows:

1. I am the publisher of the Anchorage Daily News ("Daily News"). I have personal knowledge of the matters set forth herein, including knowledge acquired from others reporting to me in the course of their duties with the Daily News.

2. The Daily News is a newspaper of general circulation, published daily in Anchorage, Alaska. The Daily News is the leading newspaper in the state, and has often received recognition for its outstanding news coverage, editorials and commentary, including two Pulitzer prizes — both times the Gold Medal for Meritorious Public Service. The Daily News is owned by Anchorage Daily News, Inc., an Alaska corporation, which in turn is owned by The McClatchy Company. Neither the Daily News nor its parent company is owned or controlled by any candidate, political party, or political action committee.

3. I have reviewed the complaint in the above-referenced matter, and the response being filed by the Daily News. The factual assertions, specifically including those in the section of the response labeled "Facts" are accurate, to the best of my knowledge, information and belief.

Dated at Anchorage, Alaska, this 15 day of October, 2004.

By: Michael Sexton
Michael Sexton

Subscribed and sworn to before me this 15 day of October, 2004.



Cynthia A. Grove
Notary Public in and for the State of Alaska
My commission expires: 12/2/05

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Attachment A

1. Editorial pages (pages B-12 and B-13) from October 15, 2004, Anchorage Daily News, including The Voice of the Times (upper half of page B-13).
2. Copies of randomly selected illustrative Voice of the Times pages, including:
 - a) December 4, 1992
 - b) May 23, 1995
 - c) April 1, 2001

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Anchorage Daily News 5

THE VOICE OF THE TIMES

The Anchorage Times

"Following in Alaska, putting Alaska first"

Publisher BILL J. ALLEN

Editor DENNIS FRABLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times Community is the largest of the Anchorage Daily News does not represent the views of the Daily News, it is written and published under an agreement with the community of The Times, in the interests of preserving a diversity of viewpoints in the community.

Goodbye, common sense

A FAIRBANKS JUDGE reached a new height in judicial goodness by ruling it unlawful for two members of a public body to meet privately and discuss public business.

The ruling focused on school board affairs, but every elected and appointed group is affected — to the point it may deny members the opportunity for simple conversations, let alone debate and discourse, with their peers.

No one condones secret meetings and back-room deals.

Such behind-the-door activities clearly are barred by law. Moreover, they are scorned not only by the public but by a huge majority of public officials who know and appreciate the need to conduct public business in the open.

BUT TO STRETCH Alaska's open meeting law to cover talks between two school board members over lunch is ludicrous — no matter the subject of their conversation.

This is, after all, Alaska — a state of small towns and rural communities.

People who serve in the Legislature, on borough assemblies, city councils, on school boards and on appointed commissions are friends and neighbors. They attend social functions together, belong to the same churches, attend the same Chamber of Commerce and Rotary Club luncheons, and, yes, even have lunch together sometimes.

Is every time they get together a public meeting? Are they barred from even discussing mutual matters of public interest when they are together?

ON THE contrary, it is the public's interest to have members of the Legislature or the school board or any other public body take the opportunity to exchange views with anybody and everybody, including those with whom they serve.

Such conversations do not and should not be construed as illegal, unlawful and immoral, or blessed only if they are announced in advance, with a published agenda.

Would that judge rule illegal conversations between legislators in the legislative lounge at Juneau or over lunch at the Baronet Hotel? Would he declare it unlawful for members of the Permanent Fund board of directors to have lunch together after one of their public meetings? Does a member of our Assembly commit a crime by telephoning another member to discuss an item of city business?

Has common sense been declared illegal in Alaska?

A new name, Augie's book and a Sp

By WILLIAM J. TOBIN

NAME CHANGE: Former Attorney General Doug Bailey, a member of Humana's community advisory board, says the hospital soon will be changing its name — apparently as a consequence of a restructuring of the Humana corporate organization out of its Louisville headquarters. Bailey's suggestion for a new name: Pacific Rim Medical Center. . . But all of that is unofficial, because Gary Brower, executive director of Humana Anchorage, isn't responding to telephone inquiries about the prospect.

NAMES-NAMES-NAMES: Robin Chulupack's biography of her father, pioneer broadcaster Augie Hebert, sold at a rapid clip a week ago Saturday at an autograph party at Cynah's — with the author and Ol' Dad doing the honors at a gathering that attracted a throng of friends, history buffs, and radio, television and newspaper types. . . All told, 155 copies of "Augie Over Alaska" were purchased by a group that included veteran airline pilot Bill English and his wife, Shirley, a poet and musician; story teller Reuben Gelineau; author/newspaperman John Strohmeyer

and his wife, Nancy; television personalities Theda Comstock and Norma Goodman. Friends of Augie's in broadcasting for more years than they probably want to admit: contractor Al Swelling and his wife, Mitzi; retired physician George Hale and his wife, Mary, one of Anchorage's pioneer leaders in the arts; Miriam Nilsen, a civic leader and writer whose late husband, Herb, was one of the early newspaper correspondents in Alaska; state Veterans Affairs director Larry Landry and his wife, Glady; and Dr. Sylvia Broadly, head of Journalism department at the University of Alaska.

ON THE MILITARY FRONT Two of Elmendorf Air Force Base's most popular figures, Canadian Brig. Gen. Stu McGowan and his wife, Paddy, will be leaving the command this coming spring — as he retires after a distinguished career that began as a naval aviator in the Canadian military forces. At Elmendorf, Gen. McGowan has served as deputy to commander-in-chief of the Alaskan Command and as his

Berry's World



"Guess what? — FINALLY, we're going to have 'real people' in the White House."

Canadian representative on Elmendorf's North American Air Defense Command responsibilities. . . The McGowans, who took in the Great Alaska Shootout finale last weekend with the Hilton Hotel's Dorothy and Ralph Nogu, will make their retirement home in Victoria, B.C.

SPEAKING OF THE MILITARY: Three of the nation's best known Air Force bases will close a week from Tuesday. The lights go out in mid-December at Eaker Air Force Base in Arkansas and two in California, England and Georgia. The local impact: Before the closings were announced, Eaker had a combined military and civilian work force of 3,092. England had 3,063 and Georgia had 3,008. . . Fort Richardson, you'll recall, last year was on the preliminary list promulgated under the Base Closure Act. But it was spared, when cooler heads prevailed — pointing out Alaska's vast training grounds and this state's strategic position for quick deployment of troops to world trouble spots.

SPANISH CHEERS: A faithful reader just back in Anchorage after a trip to Europe reports being in Barcelona, Spain, on the day after Bill Clinton's presidential elec-

tion. . . Vaughn's tale of Ol'

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OTHER VIEWS

Anchorage can learn from Albuquerque's

Three years ago, the school board in Albuquerque, New Mexico, agreed to try year-round schedules at three elementary schools. Today, with 28 schools converted to the new schedule and the remaining schools slated to switch over, parents, teachers and board members themselves remain per-

MARY ENGEL

in Anchorage. Albuquerque's population was booming, but the school district didn't want to overbuild, as it had during an earlier baby boom. Besides, voters turned down a

schedule, where schools divide students into five groups, or tracks, that attend classes on a staggered 12-week or three week off schedule. Only a multitask schedule saves space in overcrowded schools by absorbing, in this example, 30 percent more students in a multitask school, at least one teacher

became convinced that year-round education is simply a better way to teach kids. The assumptions behind the new schedule are appealing. Children will retain more after shorter breaks than after months-long vacations. Teachers will spend less time reviewing old material. Both teachers and stu-

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The Anchorage Times

"Believing in Alaskans, putting Alaska first"

Publisher: BILL J. ALLEN

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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Goodbye, common sense

A FAIRBANKS JUDGE reached a new height in judicial goofiness by ruling it unlawful for two members of a public body to meet privately and discuss public business.

The ruling focused on school board affairs, but every elected and appointed group is affected — to the point it may deny members the opportunity for simple conversations, let alone debate and discourse, with their peers.

No one condones secret meetings and back-room deals.

Such behind-the-door activities clearly are barred by law. Moreover, they are scorned not only by the public but by a huge majority of public officials who know and appreciate the need to conduct public business in the open.

BUT TO STRETCH Alaska's open meeting law to cover talks between two school board members over lunch is ludicrous — no matter the subject of their conversation.

This is, after all, Alaska — a state of small towns and small communities.

People who serve in the Legislature, on borough assemblies, city councils, on school boards and on appointed commissions are friends and neighbors. They attend social functions together, belong to the same churches, attend the same Chamber of Commerce and Rotary Club luncheons, and, yes, even have lunch together sometimes.

Is every time they get together a public meeting? Are they barred from even discussing mutual matters of public interest when they are together?

ON THE contrary, it is the public's interest to have members of the Legislature or the school board or any other public body take the opportunity to exchange views with anybody and everybody, including those with whom they serve.

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Alaska teamwork

IT'S TAKEN MORE than two decades to right the wrong, but finally it appears the federal government is poised to lift the unfair prohibition against the export of Alaska North Slope oil.

It is a decision that — on its merits — should have been made long ago. However, not until now, with Alaska's congressional delegation holding powerful committee chairmanships and the governor having the ear of the president, has Alaska been able to persuasively make its case.

Last week's vote in the U.S. Senate to lift the ban was remarkable. The measure passed by a resounding 3-to-1 vote margin — specifically by a vote of 74-25. That's about the same margin that in past years defeated attempts to lift the ban.

Credit Sen. Frank Murkowski, chairman of the Energy and Natural Resources Committee, for guiding the legislation through the Senate. It's an issue that has been on Murkowski's priority list since he was first elected, but until this year he had been stymied by the powerful maritime union lobby.

Murkowski had the able assistance of Sen. Ted Stevens to line up support from both sides of the aisle and to make sure the issue didn't get blocked in committee. To get to the final vote required overcoming a filibuster led by a Washington Democrat, Sen. Patty Murray.

Credit also Gov. Tony Knowles and the Alaska Legislature for making it clear to the Clinton White House and to the Congress that lifting the ban is an issue that has the full support of the state. Knowles personally delivered the message to President Clinton and the Legislature unanimously passed a resolution endorsing the action.

Undoubtedly, the president's support for lifting the ban — albeit with the unnecessary baggage of an environmental study being conducted first — was key to getting a number of Democrats in Congress to support the initiative.

Any doubt about how the House would handle the matter was answered within 24 hours after the Senate's action. The U.S. House

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CONSERVATIVE VOICE FOR ALASKANS

WILLIAM J. TOBIN
 Senior editor

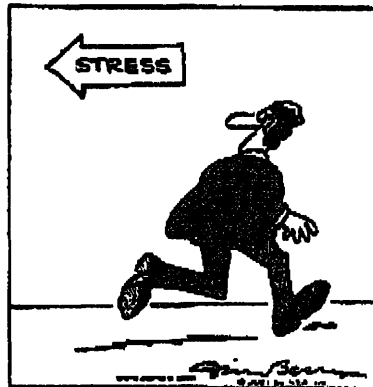
Boeing's move is a Seattle shocker

By WILLIAM J. TOBIN

HOW DO YOU stun a city? It's if you're Boeing — and your chair goes to Washington, D.C., to hold a conference announcing that the pany is moving its headquarters out sattle where it has been since its ding 65 years ago. Civic leaders are ig to paste a happy face on the situa- but the reality is that most of the t Sound area is in a deep funk. No ler. Among other things, Boeing year donated \$45.5 million to vari- community non-profits and other ity organizations. Its Employees munity Fund donated another \$20 on to worthy causes. And employee ributions to local charities were thod by another \$1.85 million in any giving. Not to worry, Boeing's people say. The company will not n its contributions in the Seattle , where its airplane manufacturing ations will continue to be located. some Seattle leaders, alas, are not re.

THE DEPARTURE of the Boeing quarters by this August — to ago or Dallas-Fort Worth or Den- with the actual still to be unced — will Costco the st Washington company on the ne 500 list co, based in uah, had rev- of \$32.2 billion ear. That put it d of Microsoft, h reported \$23 n in revenue. Next on the Fortune for Washington state were Weyer- er, with \$16 billion, and Washing- futual Bank, with \$15.8 billion

HOW WAS news of the Boeing viewed? This is how the Seattle s expressed it editorially: "All the mic numbers suggest Seattle can b the exodus of Boeing's top execu- and world headquarters, but the is, (the) shocking announcement — a lot." The headline editorial aps summed it up best: "Lesser le."



WELL, ENOUGH of Seattle's problem. Let's turn to our own Onward & Upward Dept., and report that July 1 is the date that Daniel Johnson, provost at the University of Alaska Anchorage since 1997, will take over as president of the University of Toledo. The 60-year-old Johnson joined UAA in 1997, coming here from the University of North Texas, where he was dean of the School of Community Service. Prior to his selection by Toledo, Johnson also had been a finalist for the job of president of the University of Nevada, Reno.

ALSO DEPARTING Anchorage are Japanese Consul General and Mrs. Yoshinori Tsujimoto, heading back to Tokyo and retirement after a 30-year career in the Japanese diplomatic service. The Tsujimotos had been in Anchorage for the last three years, establishing themselves as popular and generous members of the community. Commissioner Debbie Sedwick, who heads the state's Department of Community and Economic Development, praised them as important figures in fostering trade relationships between Alaska and Japan.

MEANWHILE, THE effort to promote restoration of scheduled passenger service between here and Japan continues under the direction of a state-sponsored committee led by Greg Wolf, head of the state Division of International Trade and Market Development. Working with him are representatives from tourism, aviation and trade organizations from all around the state. Hopes

for future year-round traffic are raised a bit because three jumbo-jet charters carrying tourists from Japan are scheduled here in August. The first group, traveling aboard a DC-10 operated by Jalways, a subsidiary of Japan Airlines, is due here Aug. 6 from Anchorage's sister city of Chitose. The other two charters are scheduled to arrive Aug. 10 — an All Nippon Airways 747 from Osaka and another Jalways DC-10 from Nagoya. Each group will be spending five full days in Alaska.

WHILE ON THE subject of our carriers, Northwest Airlines has 40A employees, including pilots, based in Anchorage. The airline maintains five other pilot bases: Detroit, Honolulu, Memphis, Minneapolis-St. Paul, and Seattle... Speaking of Seattle, construction will begin in May on expansion of Sea-Tac International's central terminal. Be prepared to step around scaffolding on your travels through Sea-Tac in the months ahead.

DOWN ON THE GROUND Army troops at Fort Richardson and at Fort Wainwright in Fairbanks are taking delivery of a new fleet of medium tactical trucks — 374 of them, a hefty chunk of rolling stock costing \$51.2 million. The vehicles include 165 new 2 1/2-ton vans and cargo trucks, and 208 new 5-ton cargo carriers, wreckers, tractors, and dump trucks.

FINALLY, LOCAL Republican women are sponsoring a big dinner Friday night at the Egan Center with a headline speaker of considerable note — Linda Chavez. You'll remember her as President George W. Bush's first choice for secretary of labor in his new Cabinet. She became a target of Democratic senatorial opposition after it was disclosed she had provided a shelter in her home for a non-resident alien. Rather than let the firestorm burn, she withdrew as a nominee. But she'll be here at the invitation of the Mat-Su Republican Women's Club and the Anchorage Republican Women's Club. Dinner tickets are \$65 and reservations can be made by calling 276-4467.

William J. Tobin is an editor of The Anchorage Times.

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